

Filed for intro on 02/24/97
HOUSE BILL 1826 By
Boyer

SENATE BILL 1930
By Person

AN ACT relative to distress warrants and to amend Tennessee
Code Annotated, Section 71-1-123.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, 71-1-123, is amended by redesignating
current subsection (d) as subsection (e) and by adding the following as a new
subsection (d):

(d)(1) The commissioner of the department of human services is specifically
authorized to issue distress warrants against any person or entity, under the hand and
seal of the commissioner, to be executed by either the sheriff, or, at the election of the
department, by an authorized employee or agent of the commissioner, for the collection
of overpayments made of any public benefits or funds which the department administers
which have been received by or credited to that person or entity, whether due to fraud or
otherwise.

(2)(A) Prior to the issuance and execution of a distress warrant, the
person or entity alleged to have received payments incorrectly shall be offered
the opportunity to make repayment of the overpayments under a plan for
repayment approved in the discretion of the department. If the plan is entered
and if the person or entity has waived the right to administratively contest the
amount of overpayment as part of such plan, any failure to comply with the terms

52997792

52997792

003137

00313794

of the plan shall permit the department to issue a distress warrant as provided in this subsection and to execute the distress warrant upon giving ten (10) days written notice to the last known address of the person or entity describing such failure and providing the opportunity to comply with the repayment plan in a manner approved by the department. Failure to respond to the notice or to comply with any further plan shall permit the issuance and execution of the distress warrant without further notice.

(B) If, for any reason, the plan is not entered initially, or if the person or entity disagrees with the department's initial determination of overpayment, or otherwise does not waive the right to contest the validity of the claim, the person or entity shall be offered an administrative hearing prior to the issuance of and execution on a distress warrant to contest the validity of the department's determination of overpayments received by that person or entity, whether by fraud or otherwise. If the hearing upholds the department's initial determination of overpayment of benefits or funds, the department may immediately issue and execute the distress warrant, unless stayed by order of a reviewing court.

(3)(A) The distress warrant shall be executed by the sheriff in the manner prescribed by § 67-1-1201 et seq., or, at the election of the department, by an employee or agent of the commissioner, and the distress warrant, whether executed by the sheriff or by the employee or agent of the commissioner, shall have the same effect as distress warrants issued for the collection of delinquent taxes or revenue owed to the state or any agency of the state.

(B) The return on the distress warrant shall be made to the commissioner within thirty (30) days of its issuance.

(4)(A) If the distress warrant is issued to an authorized employee or agent of the commissioner, such employee or agent shall have the same power and

authority as would the sheriff for the purpose of levying and executing the distress warrant, including, but not limited to, the execution of garnishments for the recovery of overpayments of benefits or funds paid by the department.

(B) The employee or agent of the commissioner shall be entitled to the same fees and costs as would accrue to a sheriff for such services. These fees and costs shall be paid to the department which shall deposit them with the state treasury pursuant to § 9-4-301.

(5) The remedies provided by this subsection shall be in addition to, and not exclusive of, any other remedies at law available to the department in this section or otherwise provided by law.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.